



Excise Tax Advisory

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ETA 442.12.142

CONVERSION DATE: July 1, 1998

FILM USED TO PRODUCE PORTRAITS

Issued October 15, 1971

Is use tax due upon film used in producing finished portraits and upon which no retail sales tax has been paid?

Taxpayer, a photography studio, makes photographic film exposures for clients, processes the negatives and produces finished portraits. The negatives and proofs, though sold to the client, are stored by taxpayer. Use tax was assessed against the use of the negatives to which taxpayer objected on grounds that the film, negatives, and proofs were for resale, and alternatively that they became a component of the finished portraits.

The department ruled that use tax was properly assessed against the "use" of the film.

Purchases for resale are exempt only when there is no intervening use prior to the resale. (RCW 82.04.050.) Ownership of the film is not a determinative issue where the taxpayer enjoyed intervening use thereof.

RCW 82.12.020 imposes use tax upon the "privilege of using . . . tangible personal property purchased at retail or acquired by . . . bailment . . .", where the retail sales tax has not been paid.

Negatives are not a component or ingredient of the completed portrait inasmuch as the negative is in no way a physical part of the portrait.

ETBS have been made Excise Tax Advisories, and have retained their old number. Advisories with a 2 (plus three digits) are new advisories, ETBs that have been revised and readopted after review under the Department's regulatory improvement program, or advisories that have been revised and/or readopted.

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